

**FILED**

**UNITED STATES DISTRICT COURT**

JUN 27 2022

*for the*

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY                      DEPUTY CLERK

**WESTERN DISTRICT OF TEXAS**

*at* **AUSTIN**

**1:22CV00627LY**

**Robert A. Heghmann,**  
*Plaintiff,*

**DOCKET NO.**

**COMPLAINT**

vs.

**June 15, 2022**

**Kamela Harris,** Vice President of the  
United States and President of the  
United States Senate,  
*Defendant*

**THREE JUDGE PANEL  
REQUIRED**

**PLAINTIFF'S COMPLAINT**

**PRELIMINARY STATEMENT**

1. As of November 30, 2020, President Donald J. Trump had received Opinions that the Presidential Election of 2020 had been corrupted and, further, that this corruption had tainted the election in the Electoral College rendering it void. One of those Opinions came from the Plaintiff and had been delivered by hand to President Trump's personal attorney in Virginia Beach, Virginia. A copy of that Opinion is attached as Exhibit 1. Based upon these Opinions, President Trump as was his absolute right under Article II, Section 3 declared the election in the Electoral College unconstitutional and instructed Vice President Pence

to reject the election in the Electoral College and send the election of the President and Vice President to the House and Senate as provided in the 12th Amendment. This instruction is entirely consistent with the duty of the Vice President as President of the Senate.

2. Under the Constitution, the power of the President under Article II, Section 3 is absolute. The decision of the President to decree that a legislation or an action by a government agency, here the Electoral College, is unconstitutional has the same force of law as a decision by the Supreme Court. Under the Constitution, neither the Department of Justice nor the Vice President have the power or authority to veto this decision by the President. The only recourse to those opposing the decision by the President is the federal courts. Nevertheless, attorneys for the Department of Justice and others without any reference to Article II, Section 3 argued to Vice President Pence that the President had no authority to declare the election in the Electoral College unconstitutional and that Vice President Pence had the authority to reject the decision by the President and certify the results of the Electoral College election. Based upon this advice by the Department of Justice and others, on January 6<sup>th</sup>, 2021, Vice President Pence certified the results of the Electoral College election and he advised the Speaker of the House,

Nancy Pelosi. Based upon this advice the Speaker of the House declared Joseph Biden was the next President of the United States.

3. In this litigation the Plaintiff could simply argue that the action of the Vice President acting as President of the Senate in certifying the election results in violation of the Presidents declaration under Article II, Section 3 that the election in the Electoral College was unconstitutional was itself unconstitutional and void. However, given the high profile of the litigation and the remedies requested, the Plaintiff has chosen to defend his Opinion hand delivered to the President's personal attorney that the election in the Electoral College was corrupted and void and that the President was absolutely correct in holding the election unconstitutional. Further, he will prove to this Court that the decision of the Vice President to certify the election results was unconstitutional and therefore void.
4. The Plaintiff in this case will challenge the apportionment of Congressional Districts in Virginia, New York and other states based solely on population without regard to citizen population characteristics. Therefore, a Three Judge Panel is required under 28 U.S.C. 2284 (a). Under the Supreme Court ruling in *Baker v. Carr*, 369 U.S. 186 (1962),

the Plaintiff has standing under Art. III, Sec. 2. In addition, the Plaintiff brings this action as a Private Attorney General.

5. This action is brought by the Plaintiff pursuant to the United States Constitution including, but not limited to Article I, Sec. 8, cl. 1 and cl. 2, Article II, Sec. 1, Article II, Section 3, Amendments 14 and 15 of the Constitution, and the Declaratory Judgment Act, 28 U.S.C. Secs. 2201 and 2202. This Court has Subject Matter Jurisdiction under 28 U.S.C. Secs. 1331 and 1343 (3).
6. Robert A. Heghmann resides in the State of Texas, County of Williamson, City of Georgetown. As will be discussed below, prior to February of this year, the Plaintiff resided in Virginia Beach, VA. The Plaintiff alleges that because of apportionment of congressional districts in Virginia, New York and throughout the United States based solely upon total population, without regard to the citizen characteristics of the population, his vote and the votes of other suburban and rural voters in the 2020 Presidential election were debased and diluted. This result was caused by the plan devised and implemented by President Obama and the Democratic Party to use unchecked immigration, largely illegal across the Southern U.S. Border, to create Congressional Districts that are in clear violation of the One Person, One Vote Mandate. This



allowed the “Blue” States to accumulate Congressional Districts in excess of the number to which they were entitled. These districts converted to votes in the Electoral College which in 2020 lead to a corrupt Electoral College election that was unconstitutional.

7. Kamala Harris is the current Vice President of the United States. In that capacity she serves as President of the U.S. Senate. Her office is located at the White House, 1600 Pennsylvania Avenue, Washington D.C. 20500.

#### **THE FEDERAL BUDGET FOR FISCAL YEAR 2010**

8. Long before his inauguration as President, Barack Obama had a plan to turn America Blue, corrupt the U.S. House of Representatives and corrupt the Electoral College. In simple terms, he would use immigration, primarily illegal immigration across the Nation’s Southern Border, to turn Purple and Red states Blue and to put a Democratic Party lock on the U/S. House of Representatives and the Electoral College. By flooding the Nation with illegal immigrants from Latin America, he would assure the Democratic Party of victory in a majority of Congressional Election Districts. Further, using these illegal immigrants to create more and more Congressional Districts in Blue States, he would assure Democratic Party control of the Electoral College.

9. To execute this plan, president Obama needed a huge increase in the Government Bureaucracy which meant a huge increase in the federal budget. He knew Congress would never increase taxes to fund this growth in the Bureaucracy and, if it did increase taxes, would never authorize the expenditures be used to support the increase in illegal immigration.
10. Barack Obama was, however, a constitutional scholar. A former Editor in Chief of the Harvard Law Review, he taught Constitutional Law in Chicago for nine years before beginning his political career. The Constitutional Convention of 1787 was caused by the Financial Crisis of 1787. The Convention was called to end that crisis and assure the government policies which lead to the crisis would not be repeated. The Framers put a firewall in the Constitution between Clause 1 and Clause 2 of Article I, Section 8 to assure the reckless spending that had caused the Financial Crisis of 1787 would not be repeated,
11. That firewall protected the United States for 220 years, 110 Congresses and 43 Presidents. But Barack Obama, the Constitutional Scholar, knew the firewall and knew that if he blew up the firewall, he would have access to the unlimited funds he wanted, funds which would be totally at his disposal. Therefore, blowing up the firewall would be the first order

of business and he did this in the proposed Federal Budget for F.Y. 2010. He borrowed \$1.75 Trillion under Article I, Clause 2 for spending under Article I, Sec. 8, Clause 1. This immediately increased the size of the Federal Bureaucracy by 88%. He borrowed another \$ 1.0 Trillion in F.Y. 2011. His Administration used these funds to expand those Departments and Agencies which would provide illegal aliens with access to the Southern Border and, more importantly, would provide those illegal aliens with transportation throughout the United States in a pattern designed to turn Red States “Blue” and corrupt the House of Representatives and the Electoral College. By 2014, the increased Federal Bureaucracy was ready to absorb and distribute millions of illegal aliens crossing the Southern Border for distribution into Red States and Red Districts in Blue States. This massive increase in illegal aliens has now been renewed and continues under the Biden Administration.

12. This borrowing under Clause 2 for spending under Clause 1 was unconstitutional and as a result every Federal Budget since 2010 was and is unconstitutional. If the United States is to be saved, this Court must restore the Firewall.

## CONSTITUTIONAL BACKGROUND

13. “Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State *may be entitled in the Congress*.” (emphasis added). Article II, Sec. 1 of the U.S. Constitution. This requirement was unchanged by the 12th Amendment. If States appointed a Number of Electors in excess of the whole number of Representatives to which the States *may be entitled*, the Electoral College is in violation of the Constitution and any election of the Electoral College is void in which case the election of the President goes to the House of Representatives under the 12<sup>th</sup> Amendment.
14. The Democratic Party’s immigration policy caused New York, Virginia and 6 to 8 other large “Blue” states, to have more congressional districts and therefore more Electors in the Electoral College than they were entitled to. Therefore, this Court should Order Vice President Kamala Harris sitting as President of the Senate who is mandated by her oath to Defend and Protect the Constitution to reject the vote of the Electoral College and inform the Speaker of the House of Representatives that the House must elect the winner of the 2020 presidential election.

## STATEMENT OF FACTS

15. The result of this use of Immigration as a political tool was clearly visible in Virginia in 2018. As the New York Times, which along with the Washington Post is the newspaper of record for the Democratic Party, reported new immigrants handed Virginia in the Congressional Elections to Democrats.

Around the advent of the modern immigration system, in 1965, foreign-born people made up only about five percent of the American population. Now they are nearly 14 percent, almost as high as the last peak in the early 20th century. The concentrations used to be in larger gateway cities, but immigrants have spread out considerably since then.

Some went South. In 1980, 56 percent of adults eligible to vote in Virginia were born in the state. Today, that's down to 45 percent. Sabrina Tavernise and Robert Gebeloff, *How Voters Turned Virginia From Deep Red to Solid Blue*, N.Y. Times, 11/09/2019.

16. Whether the mass immigration of the past 10 years has been good or bad for the United States can be hotly debated but what is beyond debate is that it has been good for the Democratic Party.

Mass legal immigration is driving Democrats towards full electoral dominance, with left-wing politicians winning nearly 90 percent of congressional districts with larger than average foreign-born populations, analysis finds.

*The Atlantic* senior editor Ronald Brownstein analyzed Census Bureau statistics for the 2018 midterm elections, finding that the country's admission of more than a million legal immigrants every



year is set to hand over electoral dominance to House and Senate Democrats.

Among Brownstein's findings is that nearly 90 percent of House congressional districts with a foreign-born population above the national average were won by Democrats. This concludes that every congressional district with a foreign-born population exceeding 14 percent had a 90 percent chance of being controlled by Democrats and only a ten percent chance of electing a Republican. Joe Klamar, *Democrats Winning 90% Congressional Districts with Large Foreign-Born Populations*, Breitbart, 02/07/2019

17. American Immigration Policy is being driven by the Democrat Party's thirst for power, not necessarily what is best for the United States. Why that is this Court's constitutional concern is that the Democrats are pursuing this policy in violation of the "One Person, One Vote" Constitutional Mandate.

*The Horsey Rule*

18. Wade H. Horsey II was a citizen of the United States and resided in Avon, CT. In 1996 and 1998, Wade Horsey was a candidate in the Connecticut House of Representatives from the Town of Avon, a suburb of Hartford. In both elections Wade Horsey, an African American running as a Republican candidate, received in excess of 8,000 votes and lost.

19. After the 1998 loss, Wade Horsey reviewed the election results and realized that the Speaker of the Connecticut House of Representatives

running as a Democrat in an urban voting district Hartford won with 1200 votes.

20. Further analysis revealed similar results. Republican candidates running in suburban and rural districts received thousands of votes and lost. Democrats running in urban voting district received hundreds of votes and won. Plaintiff Robert A. Heghmann, an attorney who served as Wade Horsey's Federal Election Commission Compliance Officer for the campaign, was asked if there might be a violation of the "One Man, One Vote" Mandate. I advised Wade Horsey that I believed it was fair grounds for litigation.

21. On November 18, 1999 a complaint was filed in the United States District Court in Connecticut, *Wade H. Horsey v. Secretary of State*, #3:99-cv-2250 and assigned to District Court Judge Underhill. As required a Three Judge Panel was convened and Second Circuit Court of Appeals Judge Ralph K. Winter and District Court Judge Hall joined the Panel.

22. The issue placed before the Court was as follows:

Does apportionment of both state and congressional election districts based solely upon total population without regard for the percentage of citizens result in the effective impairment of suburban and rural votes cast in both statewide and congressional elections as those votes are debased and diluted thereby rendering the system of apportionment based solely upon total population without regard to

citizen characteristics unconstitutional under the One Person, One Vote Mandate?

23. The Secretary of State moved to Dismiss for failure to state a cause of action. On June 1, 2001 the Three Judge panel denied the State's Motion to Dismiss and later noted, "Because Horsey offers information regarding the percentages of citizens and non-citizens in different states and certain congressional districts, there may be some evidentiary support for his claim that including non-citizens for apportionment purposes substantially dilutes his vote." (Citation to Record deleted) Horsey Slip Opinion at 11. A copy of that opinion is attached as Exhibit 2.

24. In the wake of the 2000 Census, the Census Bureau published detailed reports district by congressional district stating with 90% accuracy the number of non-citizens in each district thereby permitting the Plaintiff to factually demonstrate the potential constitutional violation. At the time of the 2000 Census, the Census Bureau announced that after the 2010 Census it would report state legislative district by state legislative district the number of non-citizens in each district but that information was not currently available. Therefore, the Plaintiff abandoned the claim with regard to state apportionment.

25. The Court then considered the Plaintiff's Offer of Proof and found, "The data reveal that the percentage of non-citizens in Connecticut's congressional districts varies from between 2.2 percent and 9.7 percent. However, this is within a generally accepted range of deviation from equality. See *Chen v. City of Houston*, 206 F.3d 502, 522 (5<sup>th</sup> Cir. 2000) (less than 10% deviation is constitutionally tolerated for state elections); *Garza v. County of Los Angeles*, 918 F.2d 763, 785 – 86 (9<sup>th</sup> Cir. 1990) (Kozinski, J., concurring in part, dissenting in part).

26. Thus, the rule in the District of Connecticut is that (1) if a plaintiff offers information regarding the percentages of citizens and non-citizens in different congressional districts, there is evidentiary support for his claim that including non-citizens for apportionment purposes substantially dilutes his vote and (2) that a 10% deviation is the red line in determining the generally accepted range of deviation from equality. In this case, the Plaintiff is asking the Court to adopt this rule and apply it to congressional voting districts in Virginia, New York and other states.

*The Democratic Party's Reaction to Horsey*

27. The Democratic Party in Washington was well aware of the *Horsey* litigation. Gregory D'Oria, the Assistant Attorney General defending the



case, advised me that when the Panel denied the State's Motion to Dismiss, his telephone (remember this was 2002) exploded. Every Democratic leader in Washington wanted updates on the litigation. As a result of the legal success of the *Horsey* litigation even though there was no remedy, when Barack Obama became President, he ordered the Census Bureau to discontinue documenting the number of foreign-born non-citizens in congressional election districts and to abandon plans to document the number of foreign born, non-citizens in state legislative election districts. The Census Bureau continues to adhere to that order.

28. The order of President Obama to the Census Bureau effectively made it almost impossible for a voter to impose the One Person, One Vote Mandate on the creation of Congressional Districts in urban areas thereby permitting the Democrats to debase and dilute the votes of suburban and rural voters throughout the United States.

#### *29. The Earlier Virginia Litigation*

30. Although the Census Bureau no longer publishes the citizen percentage of congressional districts, parts of the Community Survey continue to document the percentages of foreign-born citizens *and non-citizens* in each state and in counties and cities in each state. In Virginia, 12.1% of



the population is foreign-born. Of these foreign -born persons, 51.1% are naturalized citizens while 48.9% of the foreign-born are non-citizens.

31. While the Census Bureau per President Obama's Order has not documented the percentage of foreign born who are naturalized citizens versus non-citizens in each congressional district as it did in 2004, we do know what counties comprise the 8<sup>th</sup> and 9<sup>th</sup> congressional districts in Virginia. I used county citizen/non-citizen statistics to calculate congressional district foreign-born citizen versus foreign-born non-citizen statistics.

32. According to the 2017-18 Census Department's Community Survey, the population in the 9<sup>th</sup> congressional district where the Plaintiff resided and voted, was 704,831. Of this the foreign-born population in the district was 15, 260 or 2.2% of the total population. By contrast the 8<sup>th</sup> congressional district had a population of 795, 467 of which 224,571 were foreign-born or 28.2% of the total population.

33. The 8<sup>th</sup> Congressional District comprises all of Arlington County, approximately half of Fairfax County and the City of Fairfax. Of Arlington County's 234,965 total population, 11.9% (27, 904) are foreign born non-citizens. Of Fairfax County's 1,148,433 total

population, 14.4% (165, 387) are foreign born non-citizens. Of the City of Fairfax's 23,589 total population, 15.3% (3615) are non-citizens.

34. Combining Arlington County, half of Fairfax County and City of Fairfax, 14.4% of the population of the 8<sup>th</sup> Congressional District are foreign born non-citizens. Even assuming all of the foreign-born population in the 9<sup>th</sup> Congressional District, 2.2%, is non-citizen (which is not likely) the difference of 12.2% is outside the acceptable range to avoid violation of the One Person, One Vote Mandate.

*The Constitutional Violations in New York*

35. In New York City Immigrants make up 38% of the population. New York City contains 11 Congressional Voting Districts. Once again, the Census Bureau has not broken out the statistics on citizen versus non-citizen population in each congressional district but it has broken out the non-citizen statistics in each county. Three of the eleven congressional districts are contained in one county.

36. The sixth congressional district is contained entirely within the County of Queens. Out of a population of 2,278,722, the foreign-born population of Queens is 1,111,780. If these foreign-born, 482,104, or 21.2% of the total population, are non-citizens.

37. The ninth congressional district is entirely contained in Brooklyn. Of the 2,504,700 residents, 971,504 are foreign-born. Of these, 399,573, or 16% of the total population, are non-citizens.

38. The 15<sup>th</sup> congressional district is contained entirely in the Bronx. Of the 1,432,132 residents, 513,499 are foreign-born. Of the foreign-born, 264,531, or 18.5% of the total population, are non-citizens.

39. Compare these urban congressional districts with three suburban and rural New York congressional districts. The 21<sup>st</sup> congressional district has 701,112 residents of whom 26,295, or .03% of the total population, are foreign born. The 22<sup>nd</sup> congressional district has 697,372 residents of whom 42,674, or .06% are foreign-born. The 23<sup>rd</sup> Congressional District has 693,764 residents of whom 27,591, or .04% of the total population, are foreign-born.

40. Even if all the foreign-born population in the 21<sup>st</sup>, 22<sup>nd</sup> and 23<sup>rd</sup> Congressional districts foreign born are non-citizens (which is not likely), the districts do not fall within the permissible 10% difference required by *Horsey*.

*Judicial Bias in the 4<sup>th</sup> Circuit and Virginia*

41. The extreme bias of the Democrat Appointees to the Fourth Circuit Court of Appeals and their willingness to jettison the U.S. Constitution

to favor the Democrat Party and its political agenda has reached the point where the Minority Republican Appointees to the Fourth Circuit, clearly frustrated, are openly criticizing the undeniable bias of the Democrat Majority in a published opinion. Compare the Dissenting Opinion of Circuit Judge Wilkinson with the Concurring Opinion of Circuit Judge Wynn in *In re Donald J. Trump*, Fourth Circuit Doc. No. 18-2486. Or as Circuit Judge Wilkinson rhetorically asked in his Dissenting Opinion, “something other than law [is] afoot” here”. *In re Donald J. Trump*, supra., First Dissent at 22 This Democrat bias is also evident on the District Court for the Eastern District of Virginia.

42. The Plaintiff attempted to raise the issues he first raised in the *Horsey* litigation and now again herein in a complaint titled *Hegmann v, Trump*, Case 2:20-cv-00159 which was filed in the Eastern District of Virginia on 3/26/2020. The Complaint clearly was challenging apportionment of Congressional Districts in Virginia and New York. The Complaint requested a Three-judge panel. Under 28 U.S.C. Sec. 2284 (b)(1), “Upon the filing of a request for three judges, the judge to whom the request is presented shall, unless he determines that three judges are not required, *immediately* notify the chief judge of the circuit, who shall designate two other judges, at least one of whom shall be a

circuit judge.” (Emphasis added) As the Supreme Court decided in *Shapiro v. McManus*, 136 S. Ct. 450 (2015), *immediate* notification is not discretionary.

43. In the Virginia case a decision for the Plaintiff could have an adverse effect on the Democrat Party’s chances of retaining control of the House of Representatives in the 2020 elections and possibly even in winning the Presidential Election. To avoid this, the Obama Appointed district court judge simply refused to request the appointment a three-judge panel. This effectively ended the case and the Plaintiff was effectively blocked by the court from litigating the important issues raised in that litigation and now in this case.

#### *The Electoral College Election*

44. In order to make the urban congressional districts in Virginia, New York and other Blue States comply with the One Person, One Vote Mandate under the rationale of *Horsey*, those states will have to reduce the number of Congressional Districts in each state. This is because there are so many foreign-born, non-citizens simply moving district lines will not cure the defect. The Urban districts would have to be geographically expanded to include inhabitants in suburban and possibly rural districts who are citizens. Once this expansion takes place, because every district



in the state has to have the same number of inhabitants, the suburban and rural districts would also have to be expanded. The states will simply run out of room within state lines, therefore the number of congressional districts in each state would have to be reduced. Virginia will lose one or two congressional districts and New York will lose six to eight congressional districts. That means they will also lose votes in the Electoral College.

45.As a result of President Obama's order to the Census Bureau not to publish citizen statistics on each congressional district and the Virginia District Court's refusal to reach the issues properly raised in the Virginia action, in the 2020 election in the Electoral College, Virginia, New York and the other Blue States cast votes in excess of the number of congressional districts they were entitled to. Therefore, the Electoral College vote in 2020 was unconstitutional.

46.If our Representative Democracy is to retain the confidence of The People and survive, this Court must take a stand and defend the principle of One Person, One Vote in congressional districting. If *Horsey* is good law (and President Obama, a constitutional scholar, apparently thought so since he ordered the Census Bureau to stop reporting the percentage of foreign-born, non-citizens in congressional and state representative

districts) then the 2020 congressional elections were in violation of the One Man, One Vote Mandate and, as a result, the Electoral College election was unconstitutional.

### **Count I**

47.The Plaintiff incorporates and re-states the allegations contained in paragraphs 1 through 46 as if fully set forth herein.

48.It is clear that President Obama intended to use illegal immigration to change the face of American society both demographically and politically. Getting illegal immigrants to come to the United States was easy, just open the Southern Border. The difficult part was transporting the illegal immigrants to Red States and Red Districts in Blue States. That would take an enlarged Washington Bureaucracy and millions of dollars, resources Congress was unlikely to provide, especially to increase illegal immigration.

49.To provide the funds necessary rather than raise tax revenues and appropriate funds, President Obama using his constitutional expertise, violated the limitations on borrowing under Article I, Sec, 8, cl. 2 and borrowed \$1.75 Trillion in F.Y. 2010 and another \$1.0 Trillion in F.Y. 2011 and added the funds to spending under Article I, Sec. 6, Cl. 1. This was, as President Obama well knew, unconstitutional.

50. Since the borrowed funds had not gone through the appropriation process, President Obama was free to use the funds as he saw fit. He channeled the funds to many agencies but especially to the Departments of Health and Human Services and Homeland Security. These Departments have lead the way in allowing unchecked illegal immigration and, more importantly, to diverting the illegal immigrants to geographic areas which would enhance Democratic Party political power.

51. This constitutional violation must never be repeated. Therefore, the Plaintiff will make a Motion for a Declaratory Judgment that Borrowing under Cl. 2 for Spending under Cl. 1 is unconstitutional.

## **Count II**

52. The Plaintiff incorporates and re-states the allegations contained in paragraphs 1 through 51 as if fully set forth herein.

53. The Obama team and the Democratic Party used the illegal immigrants, all non-citizens, to create Congressional Districts in violation of the One Man, One Vote Mandate thereby enhancing the political power of Democrats by diminishing the votes of suburban and rural voters thereby corrupting the House of Representatives and now the Electoral College.

54.This corruption of the House of Representatives and the Electoral College must not be allowed to continue, therefore, the Plaintiff will file a Motion for Declaratory Judgment that if any Congressional District is comprised of 10% illegal- alien, non-citizens then the Congressional District must be re-apportioned.

### **Count III**

55.The Plaintiff incorporates and re-states the allegations contained in paragraphs 1 through 54 as if fully set forth herein.

56.In December, 2020 the State of Texas filed an Original Action in the Supreme Court against the State of Pennsylvania and three other Blue States to have their votes in the Electoral College voided due to Constitutional violations in the 2020Presidential election. That suit was supported by 17 Attorneys General and 105 Members of Congress in Amici Briefs. The Supreme Court dismissed the suit for Lack of Standing.

57.Once the Supreme Court rejected the State of Texas Complaint, Texas and the 17 Amici States Petitioned President Trump directly. The 18 States were undoubtedly asking President Trump to use his Executive Authority under Article II, Section 3 to declare the vote of the Electoral College unconstitutional and order Vice President Pence as President of

the Senate to reject the vote of the Electoral College and send the election of the President to the House of Representatives where the President would be elected in voting by state.

58. Based upon the facts before him, President found the election of President in the Electoral College to be invalid and un-constitutional. Once President Trump found the Electoral Court Election unconstitutional, then under Art. II, Sec. 3 his finding became the law of the land unless or until the federal courts found his decision was not valid.

59. Despite President Trump's finding and despite instructions from President Trump, Vice president Pence counted the votes cast in the Electoral College and declared Joseph Biden to be the winner of the Presidential Election. This action by Vice President Pence was unconstitutional and the election of Joseph Biden is therefore void.

#### **Count IV**

60. The Plaintiff incorporates and re-states the allegations contained in paragraphs 1 through 59 as if fully set forth herein.

61. If *Horsey* is good law, the Electoral College Election in 2020 was and is unconstitutional.

Wherefore, the Plaintiff demands:



1. A Declaratory Judgment that borrowing under Article I, Sec. 8 cl.2 for Spending under Article II, Sec. 8, cl. 1 in times of Peace is unconstitutional and that all budgets from F.Y. 2010 to the present were and are were and are unconstitutional.
2. A Declaratory Judgment that the action by Vice President Pence in counting the votes cast in the Electoral College Presidential Election was unconstitutional and therefore void.
3. A Declaratory Judgment that the current apportionment of Congressional Districts based upon population without regard for citizen characteristics is a violation of the One Person, One Vote Mandate and therefore Congressional Districts in New York, Virginia and other “Blue” States are unconstitutional;
4. A Declaratory Judgment that the Electoral College election of 2020 was and is constitutiona
5. This Court must direct the President of the Senate to advise the Speaker of the House that the Election in the Electoral College was unconstitutional and the House of

Representatives must select the winner of the 2020 Presidential Election as provided by the 12<sup>th</sup> Amendment to the Constitution.



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